

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

FIKRI BAYRAMOGLU,)	
)	
Petitioner,)	No C 08-0277 VRW (PR)
)	
vs.)	ORDER OF DISMISSAL
)	
BEN CURRY, et al,)	(Docs # 2 & 6)
)	
Respondent(s).)	

Fikri Bayramoglu, a state prisoner at the Correctional Training Facility in Soledad, California, has filed a pro se petition for a writ of habeas corpus seeking a prison work assignment. He also seeks leave to proceed in forma pauperis under 28 USC § 1915.

Good cause shown, Bayramoglu's application for leave to proceed in forma pauperis (docs # 2 & 6) is GRANTED. Bayramoglu's petition for a writ of habeas corpus is DISMISSED without prejudice to filing a civil rights complaint under 42 USC § 1983, however.

Although the Supreme Court has not addressed whether a challenge to a condition of confinement may be brought under habeas, see Bell v Wolfish, 441 US 520, 526 n6 (1979), the Ninth Circuit has held that habeas jurisdiction is

1 absent, and a § 1983 action proper, where, as here, a successful challenge to a
2 prison condition will not necessarily shorten the prisoner's sentence. Ramirez v
3 Galaza, 334 F3d 850, 859 (9th Cir 2003). In addition, the preferred practice in
4 the Ninth Circuit has been that challenges to conditions of confinement be
5 brought in a civil rights complaint. See Badea v Cox, 931 F2d 573, 574 (9th Cir
6 1991) (civil rights action is proper method of challenging conditions of
7 confinement); Crawford v Bell, 599 F2d 890, 891-92 & n1 (9th Cir 1979)
8 (affirming dismissal of habeas petition on basis that challenges to terms and
9 conditions of confinement must be brought in civil rights complaint).

10 The clerk is instructed to enter judgment in accordance with this order,
11 terminate all pending motions as moot and close the file.

12 SO ORDERED.



13
14 VAUGHN R WALKER
United States District Chief Judge

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

FIKRI BAYRAMOGLU,

Petitioner,

v.

BEN CURRY et al,

Respondent.

Case Number: C08-0277 VRW

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on May 30, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Fikri Bayramoglu
C-54604
CTF-C-ZW 329-L
P.O. Box 689
Highway 101 North
Soledad, CA 93960

Dated: May 30, 2008

Richard W. Wieking, Clerk
By: Cora Klein, Deputy Clerk

